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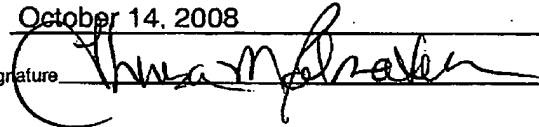
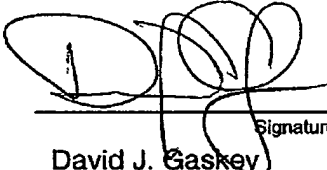
Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		67,108-022; Capece 2-11	
CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>October 14, 2008</u> Signature <u></u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number <u>10/686,451</u>	Filed <u>10/15/2003</u>
		First Named Inventor <u>Capece, Christopher J.</u>	
		Art Unit <u>2617</u>	Examiner <u>Lam, Dung Le</u>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the		 Signature	
<input type="checkbox"/> applicant/inventor.		<u>David J. Gaskey</u> Typed or printed name	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)			
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u>		<u>(248) 988-8360</u> Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>October 14, 2008</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 14 2008

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Capece 2-11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Capece, Christopher J.
Serial No.: 10/686,451
Filed: 10/15/2003
Group Art Unit: 2617
Examiner: Lam, Dung Le
For: NEURAL NETWORK-BASED EXTENSION OF
GLOBAL POSITION TIMING

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request Pre-Appeal Brief Review of the final rejection in this case because there is no *prima facie* case of obviousness.

The Examiner's proposed combination cannot be made because it changes the principle of operation of the arrangement in the primary reference. MPEP 2143.10(VI) states that a proposed modification or combination of the prior art does not establish a *prima facie* case of obviousness when that proposed combination changes the principle of operation of a reference. In this case, the Examiner proposes to combine the *Jin* reference (U.S. Pub. No. 2003/0012158) with the *Martin* reference (US Pat. No. 7,299,214). The proposed combination cannot be made and the rejection must be withdrawn.

The *Jin* reference discloses an arrangement where one base station (BTS) includes a global positioning system (GPS) device and the one BTS distributes the GPS timing information

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over an Ethernet connection among several BTSs connected to the one that has the GPS device. (See, e.g., paragraph 0008 on page 1 and paragraph 0028 on page 3). If there is no GPS signal available over the Ethernet connection, a clock recovery circuit at each connected BTS takes a data stream off the Ethernet connection and uses transitions of the data stream to “recover” the clock signal from the one BTS that includes the GPS device and a special oscillator to provide the clock signal. This is described, for example, in paragraphs 0037 and 0038 on page 4.

If one were to make the substitution suggested by the Examiner (e.g., to substitute in *Martin's* predicted values of a “numeric data time flow”), in place of the clock signal recovery technique described in the *Jin* reference, that would completely change the principle of operation of the arrangement in the *Jin* reference. Such a modification cannot be made according to MPEP 2143.01(VI). Replacing the clock signal recovery technique of the *Jin* reference with *Martin's* predicted values of a “numeric data time flow” completely changes the principle of operation in the *Jin* reference and there is no *prima facie* case of obviousness because the Examiner's proposed combination cannot be made.

The rejection of claims 1 and 14 must be withdrawn.

The rejection of these claims is based on the improper combination of *Jin* and *Martin*. Given that the combination cannot be made, there is no *prima facie* case of obviousness and the rejection must be withdrawn.

The rejection of claims 4-7,9, 11-13 and 17-20 must be withdrawn.

The rejection of these claims adds teachings from the *Telia* reference to the improper combination of *Jin* and *Martin*. The proposed addition of *Telia's* teachings does not remedy the defect in the proposed base combination and there is no *prima facie* case of obviousness. The rejection must be withdrawn.

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Capece 2-11**The rejection of claims 2, 3, 10, 15 and 16 must be withdrawn.**

The rejection of these claims is based on the proposed addition of the *Bullock* reference to the proposed combination of the *Jin* and *Martin* references. The *Bullock* reference does not remedy the defect in the proposed base combination of *Jin* and *Martin*. It is not possible to make the base combination and not possible to add the teachings of the *Bullock* reference, either. There is no *prima facie* case of obviousness and the rejection must be withdrawn.

The Office has repeatedly rejected the claims under 103 but without ever establishing a legitimate *prima facie* case of obviousness. Applicant is entitled to a notice of allowance without further delay.

Respectfully submitted,

CARLSON, GASKEY & OLDS

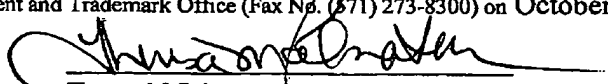
By: 

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Dated: October 14, 2008

CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request for Review, relative to Application Serial No. 10/686,451 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on October 14, 2008.


Theresa M. Palmateer